IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1608 OF 2005

Nivrutti Genu Lonkar & anr. ..Petitioners.
Vs.
Anwar Abdul Haziz Mahadevi & Ors. ..Respondents.
...

Ms.Angeline Rodrigues with Mr.Mohan Pungliya for the petitioners.

CORAM : DR.D.Y.CHANDRACHUD, J.

30th August, 2005.

P.C. :

A suit for specific performance came to be decreed ex parte on 11th July, 1988. According to the Petitioners they were unaware of the proceedings in the suit and they obtained knowledge of the decree on 27th September, 1988. An application was filed on 10th October, 1988 for the restoration of the suit and an application for condonation of delay was also filed. The application was dismissed on 9th February, 1989. Another application which was then taken out (Exh.22) was also dismissed. Misc. Application No.113 of 1989 was thereafter taken out on which an order was passed on 16th February, 1991 dismissing the application. Nearly 12 years thereafter a writ petition was filed in this Court (Writ

Petition 1141 of 2003) in which leave was sought to withdraw the Petition with liberty to adopt appropriate remedy , if any, available in law. The Petition was allowed to be withdrawn with liberty as prayed. This Petition has now been filed on 9th February, 2005. The Petitioners seek to impugn the order of the Trial Court dated 9th February, 1989 (counsel for the Petitioners states that it is wrongly referred to in the prayer as 10th October, 1988) and the order dated 16th February, 1991. There is a gross and unexplained delay on the part of the Petitioners in instituting these proceedings. Even the previous petition was filed in 2003 after a lapse of almost 12 years. In these circumstances, having heard counsel for the Petitioners, I do not find any reason to interfere under Article 227. The Petition is accordingly dismissed.